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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/358,933	07/23/1999	AKIHIRO KOHNO	35.G2429	2145

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EXAMINER

LE, VU

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 07/16/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/358,933

Applicant(s)

KOHNO ET AL.

Examiner

Vu Le

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonezawa et al., US 6271805 in view of Yamaashi et al, US 5621429 for the same reasons as set forth in ¶3 of the last Office Action (paper no. 12).

Response to remarks:

Applicants assert the neither Yonezawa et al. nor Yamaashi et al. alone or in combination, teach or suggest notifying of a state of distribution of images by the reception side while the reception side is receiving the images (Remarks, p. 12). Examiner respectfully disagrees.

For the record, the 103(a) rejection of claims 1-30 in the last Office Action (paper no. 11, ¶3) was based on the combined teaching of Yonezawa et al. in view of Yamaashi et al. It is emphasized that neither Yonezawa nor Yamaashi was relied alone, but rather in combination as a basis for the 103 rejection. It appears applicants are attacking the merits of Yonezawa and Yamaashi individually whereas the prior art rejection under 35 USC 103(a) was based on a combination of references. One cannot show non-obviousness by attacking references individually. In re Keller, 208 USPQ 871 (CCPA 1981).

In the last Office Action (see p. 3 of Office Action, paper no. 11), it was acknowledged that Yonezawa fails to teach "the state of distribution" which relates to information relating to a frame rate, and having the notification means changes display information in accordance with a frame rate, wherein the notification means does not perform notification when the frame rate is high, only when the frame rate is reduced as claimed. Rather, Yonezawa teaches the "state" of the camera i.e., information relating to "panning/tilting and zooming" of the video camera. However, the deficiency was met and made obvious by Yamaashi. That is, Yamaashi teaches keeping track of the "frame rate" of the received image data, i.e. the state of distribution as claimed, based on the bandwidth capacity, and the changes in the display information in accordance to the bandwidth capacity. Furthermore, Yamaashi et al. teaches notifying and changing the display information in accordance to high and low priority of image area interests, which is substantially equivalent or has the capacity to perform notification in accordance to high or reduced frame rate as claimed. Thus, the record is clear that Yonezawa fails to teach the state of distribution which relates to information relating to a frame rate as claimed.

As for the Yamaashi reference, applicants contend that the reference discloses that the display quality/specification of an image (including the number of frames per unit time) is automatically changed in accordance with a user interest degree, which is determined by an interest degree determining unit 207. Further, the frame rate can be manually changed by a user using, e.g., a frame number scaler 503 displayed by a video data display controller 205. However, when the display specifications are changed

either automatically or manually, these changes merely reflect the desired settings and do not necessarily reflect the actual frame rate achieved, which may be limited by the transfer capacity of the communications path. Thus, there is no suggestion in Yamaashi, et al. of notifying a user of the actual state of distribution of images, such as the frame rate (Remarks, p. 13, paper no. 12).

The argument above defines the "state of distribution" of images as being the "actual frame rate" achieved. However, claims 1-30 never convey that notion. Dependent claim 2 and like claims further specify that the state of distribution "is information relating to a frame rate of an image being received", and that is far as it goes. When a frame rate is read as being the state of distribution, the broadest interpretation of the claim would not have limited the definition to "the actual frame rate achieved" as now argue. Therefore, it is maintained that the combined teaching of Yonezawa and Yamaashi fully met the present invention as claimed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

4. Claims 31, 35 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Okazaki et al., US 5,819,048.

Re claims 31 and 35, Okazaki discloses the same communication apparatus and method (fig. 1) comprising: a reception unit (102) for receiving images generated from a communication terminal (see fig. 1:101, also fig. 2); an output unit for outputting the images (this is served by 101: transmission module) received by said reception unit (102) in order to display the images on a display unit (fig. 2:203, also col. 7, lines 3+, also fig. 12); and a notification unit for acquiring and notifying of a state of frame rate of the images by said reception unit while said reception unit is receiving the images (see fig. 1: "Report of Reception Rate", also col. 7, lines 3+); wherein said notification unit causes the display unit to display an image information of the frame rate state corresponding to the images from the communication terminal which is different from the displayed image, and notifies of the frame rate state by changing the image

information on the basis of the state of the reception by said reception unit (see col. 7, lines 3-67, also figs. 3, 7, 11).

Re claim 36, Okazaki also discloses software implementation (col. 3, lines 26-27).

5. Claims 32, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okazaki et al. as applied to claim 31 above and further in view of Yonezawa et al., US 6271805.

Claim 32 recites "...wherein changing the image information is a change in a state of display of an icon indicating a corresponding the communication terminals" is obvious over Okazaki in view of Yonezawa. Okazaki teaches a user interface module for displaying a list of frame rates (see col. 7, lines 3+, also fig. 2:203 and fig. 12 show a display for this purpose) to indicate the changing state of the display information, but fails to teach the technical features as required in claim 32. However, such technical features are well known and made obvious by Yonezawa (col. 12, line 8-18).

Therefore, taking the combined teaching of Okazaki and Yonezawa as a whole, it would have been obvious to modify the user interface module in Okazaki to include the image information is a change in a state of display of an icon as taught in Yonezawa. Doing so would enhance the notification of the changing state of the display frame rates by changing the state of the display of an icon as claimed.

Claim 34 recites "...wherein said notification unit comprises one of flashing of an icon, display of character information, and display of numerals". Okazaki in view of Yonezawa teaches performing notification by displaying character information and display numerals (Okazaki, fig. 12, also col. 7, lines 3+, also fig. 2:203), and by changing the color of an icon (Yonezawa, col. 12, line 8-18). Despite the difference, it is viewed that having a flashing icon as a means for sending a notification as claimed is merely an obvious design preference used to achieve a desirable effect, but has no patentable weight over Okazaki in view of Yonezawa due to the fact that both references teach notification means achieving equivalent results.

6. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okazaki et al.

Claim 33 recites "...wherein said notification unit does not perform notification when the frame rate is high, and performs notification when the frame rate is reduced" is obvious over Okazaki. Okazaki teaches performing a notification when the frame rate is high or low and recommending the appropriate action as a result of such notification (figs. 3-5, 11, also col. 4, lines 8+). Although Okazaki does not recommend not performing a notification when the frame rate is high, only when the frame rate is low as claimed, it is viewed that such added feature would have been an obvious variant to achieve a desirable effect since Okazaki already has the framework for performing a notification based on a frame rate.

Claim Objections

7. Claim 32 is objected to because of the following informalities:

Claim 32 recites "...changing the image information is a change in a state of display of an icon indicating a corresponding the communication terminals". The underlined phrase does not make sense. Appropriate correction is required.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contacts

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Vu Le whose telephone number is (703) 308-6613. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5:00 PM.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700 or Customer Service whose number is (703) 308-6789.

Very Important!

The fax number for submitting all Official communications is (703) 872-9314.

The fax number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at (703) 746-6867.



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